

IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.36556 of 2008
MUNNA
Versus
STATE OF BIHAR

3. 4.12.2008

Heard Sri Binod Kumar Sinha, Advocate for the petitioner and the learned A.P.P. for the State.

The allegation is of forcibly taking away the daughter of the informant who has been stated to be aged about 14 years by the informant in his written report. The medical evidence on the assessment of the age of the victim indicates as if she could be 17 years of age that is evidence from paragraph 69 of the case diary containing the copy of the medical report.

The contention is that the lady was herself coming out of the house so as to getting into the company of the petitioner and another accused Rajaloo and was going from one place to other out of her own free will. It is submitted that this is indicated by the fact that the lady, in spite of being taken, as per the allegation forcibly, did not raise any protest or cry so as to attracting persons.

The copy of the statement of the lady

has been received and in that statement the lady has alleged that accused Fajaloo came to his house and stated to her that his brother had some articles for her and she could be available by the road side. Accordingly, the lady accompanied Fajaloo and went to a place where this petitioner was present with a motorcycle and both of them forcibly put the lady on it and speeded away. The lady alleged being molested by the two accused one after other.

The contention that the medical report did not indicate any sign of rape was countered by the learned A.P.P. for the state by saying that the lady was taken away on 11.10.2007 and her examination was done on 24.10.2007, i.e., after about 13 days of the occurrence and as such there might not be any sign of rape to be found on examination of the lady.

Regard being had to the facts of the case and the statement of the lady, this appears a case of commission of rape by the petitioner.

Petition is dismissed.

(Dharnidhar Jha, J.)

B.Kr.